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Gary Dev. Landfill
Sent to file 12/20/89

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August 29, 1989

Dept. of Environmental Mgmt.
Commissioner's Office

AUG 29 1989

Ms. Kathy Prosser, Commissioner
Mr. Bruce H. Palin,
Assistant Commissioner
Indiana Department of Environmental
Management
105 South Meridian Street
PO Box 6015
Indianapolis, IN 46225

Re: Gary Development Company, Inc.
(1) Notice of Suspending Operations
(2) Petition for Variance Under I.C. 13-7-7-6

Dear Ms. Prosser and Mr. Palin:

This firm represents Gary Development Company, Inc., which operates a sanitary landfill at Gary, Indiana. At the request of Gary, this letter is first to notify the Indiana Department of Environmental Management that Gary will suspend the acceptance of waste for landfilling effective August 31, 1989. Although some landfilling capacity remains at this facility, the new regulations becoming applicable after September 1, 1989, especially those involving closure and post-closure for a sanitary landfill, make it infeasible for Gary to continue the landfilling of conventional municipal solid waste. Based upon my understanding, the remaining fill capacity at this facility is estimated to be less than 12 months, if one utilizes recent disposal volumes. Of course, estimated remaining longevity can be effected by the major variable of daily waste volume.

The area which remains unfilled is located within the northwest portion of the facility and is bordered on the west by an operation known as Vulcan Corporation and on the north by a railroad track which leads to Vulcan Corporation. As Mr. Palin will recall from his prior involvement in Cause No. N-146 before the Indiana Environmental Management Board and the IDEM between 1984 and 1987, this is the area of the facility where the Land Pollution Control Division staff of the Indiana State Board of Health were previously concerned about the integrity of the west wall.

cc: to OSHWM File II C 2c

US EPA RECORDS CENTER REGION 5



415066

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Gary has been operating pursuant to the terms of the Settlement Agreement in Cause No. N-53 as approved by the Indiana Environmental Management Board on February 28, 1983. This document provided that Gary's operating permit and amended construction permit shall last for a period of two years from its effective date of March 1, 1983. Prior to the end of this period, Gary submitted to the IEMB an application for renewal of its sanitary landfill operating permit. To date, Gary has not received any notification of either the granting or denial of the renewal application. This Settlement Agreement provided as to this now only remaining unfilled area:

7. a. Within 45 days of the effective date of this Order, or if weather conditions prevent taking the borings within this time period, as soon thereafter as weather permits, Petitioner will have four soil borings (which may be drilled at an angle) taken from the site's west wall, at random locations along the wall, with split spoon samples taken at five foot depth intervals in each boring. Blowcounts will be recorded for each split spoon sample taken. The soil boring team will visually inspect the split spoon samples taken from each hole drilled and keep a log of their observations to include any identifiable irregularities or voids encountered during drilling. A total of five Shelby tube samples shall be taken from the borings. The Shelby tube samples will be subjected to a hydraulic conductivity test to ascertain the samples' permeability. Test results will be forwarded to Staff within 15 days of their receipt by Petitioner. Staff shall be notified at least seven days in advance of any such boring, and will be given an opportunity to attend and view the drilling. Staff shall not interfere with such operations.

b. If the test results show the permeability of the clay wall to be 5.0×10^{-6} centimeters per second or less (i.e. 4.9×10^{-6} , 4.0×10^{-6} , 3.0×10^{-6} , 2.0×10^{-6} , 1.0×10^{-6} , 1.0×10^{-7} , 1.0×10^{-8} , etc.), then no remedial action for the west clay perimeter wall will be required unless Staff identifies a significant infiltration of liquid as discussed in subparagraph 7c.

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c. If the test results show that the permeability of the west perimeter wall is 5.1×10^{-6} centimeters per second or greater (i.e. 5.1×10^{-6} , 6.0×10^{-6} , 7.0×10^{-6} , 8.0×10^{-6} , 9.0×10^{-6} , 1.0×10^{-5} , 1.0×10^{-4} , etc.); or if Staff identifies a significant infiltration problem involving a concentrated flow of liquid into the site through the west wall or emanating from an area of deposited solid waste along that wall, then it is agreed that further negotiations between the parties will be required to determine what remedial action, if any, must be undertaken along the west wall. If the parties are unable to reach an agreement as to such remedial measures, if any, within 60 days of (i) the submission of the test results to the State, or (ii) the date a significant infiltration of liquid, Staff notifies Petitioner in writing of a finding of the issue of what remedial action may be required shall be submitted to the Hearing Officer for hearing and decision.

d. Until the soil boring tests are completed with satisfactory results in accordance with subparagraphs "a" and "b" above; or until an agreement is approved, or order entered pursuant to subparagraph "c" above, Petitioner agrees not to construct any further portions of the clay perimeter wall around the site.

i. If said test results are satisfactory in accordance with subparagraphs 7b, and no significant infiltration of liquid is identified in accordance with subparagraph 7c, then construction of the remaining portions of the clay perimeter wall shall proceed in the same manner as the construction of the west wall so as to ensure a permeability factor at least equivalent to the test results for the west wall and to ensure that infiltration of liquid into the site through these newly constructed walls does not occur. In this event, Petitioner will submit a narrative to staff describing the method used to construct the west wall and will document the construction of the remaining portions of the clay perimeter wall with pictures and narrative to ensure consistent construction practices.

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ii. If said test results are unsatisfactory, or a significant infiltration of liquid is identified in accordance with subparagraph 7c, the parties will attempt to negotiate an acceptable alternative for the construction of the remaining portions of the clay perimeter wall, or failing an agreement, submit the matter to the Hearing Officer for hearing and decision.

On September 30, 1986, Presiding Officer James M. Garrettson issued Recommended Findings, Conclusions and an Order for the Department of Environmental Management in Cause No. N-146 after conducting evidentiary hearings. Therein, Judge Garrettson determined in Finding 30 that: "The standing water adjacent to the site's west wall is apparently a permanent condition, which to some extent has prevented the taking of soil borings from the west wall." However, during the fall of 1985, Gary's ATEC consultants were able to obtain borings from the west wall. The results of the boring effort were submitted to the Deputy Attorney General and the Indiana Environmental Management Board at its meeting of November 15, 1985, and subsequently to its Hearing Officer in Cause N-146 on June 5, 1986. See attached Respondent's Exhibit 7 dated November 8, 1985. They demonstrated that the wall's construction was within the parameters set forth in the Settlement Agreement's paragraph 7b as being acceptable. Nevertheless, Gary received no response from the agency, nor a ruling on its permit renewal application. Thus, Gary has not placed additional waste material in this area.

PETITION FOR VARIANCE

Because of the fact that the unfilled area within the boundaries of the approved construction plan is below both the other adjacent filled areas and the neighboring ground level, it is the opinion of Gary's management that it would be appropriate and beneficial to fill this remaining area with municipal solid waste to the elevation as approved and to a contour appropriate for the surrounding area. However, as discussed previously, because of the very short remaining life of this facility and the new regulations, this continued operation is not feasible because the application of the new regulations would create an undue hardship.

Gary Development is hereby requesting and petitioning that the IDEM and/or the Solid Waste Management Board grant to it a variance from the new Indiana Solid Waste Regulation adopted in August, 1988 (329 IAC 2) including, but not limited to, the

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closure and post-closure provisions (329 IAC 2-12-1, 2-12-3, 2-14, 2-15-1-8, and 2-25-2) to allow Gary to continue to accept nonhazardous solid waste for landfill disposal in this unfilled area only under the regulations existing prior to September 1, 1988. The duration of the variance being requested is one year, and is made pursuant to I.C. 13-7-7-6.

Very truly yours,

PARR, RICHEY, OBREMSKEY & MORTON

Attorneys for Gary Development
Company, Inc.

By 

WDK/eu

Attachment

cc: Larry Hagen
Vice President
Gary Development Company, Inc.

ATEC Associates, Inc.

1501 East Main Street • Griffith, Indiana 46319
Griffith Phone (219) 924-6690
Chicago Phone (312) 375-9092



November 8, 1985

File 5-1017

Larry Hagan
Gary Development Sanitary Landfill
Cline & Gary Avenue
Gary, Indiana

REPORT

Soil Borings
Gary Development Sanitary Landfill
Gary, Indiana

ATEC Offices
Corporate Office:
Indianapolis, IN

Offices:
Atlanta, GA
Baltimore, MD
Birmingham, AL
Chicago, IL
Cincinnati, OH
Dallas, TX
Dayton, OH
Denver, CO
Freeport, TX
Gary, IN
Houston, TX
Huntsville, AL
Lexington, KY
Louisville, KY
Newport, NC
Raleigh, NC
Salisbury, MD
Savannah, GA
Washington, DC
York, PA

Affiliates:
Alexandria, VA
Norfolk, VA

Dear Mr. Hagan:

We have completed four soil borings on the Gary landfill west wall. The purpose of the work was to obtain samples of the clay liner for permeability testing. Boring locations were specified by you.

Information from our report dated September 13, 1985 is also included, in order for this report to be complete. The previous Boring 1 has been relabeled as B-4.

Work Summary

Field drilling activities were performed with a truck-mounted ONE 55 rotary drill rig. The borings were advanced with 3.25 inch I.D. hollow stem augers. A Shelby tube sample was taken from the clay liner at each location. Borings were grouted upon completion.

Ret EX 103

Subsurface Conditions

In general we encountered a clay cover approximately 2.0 feet thick followed by landfill and clay intermixed. In all borings a gray, silty clay liner was encountered at depths ranging from the surface to approximately 20 feet.

Permeability Testing

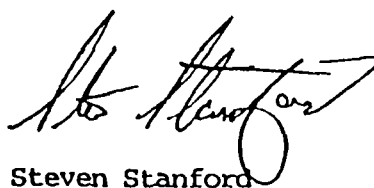
Shelby tube samples from each boring were tested for permeability using the falling head method.

Data Summary

<u>Boring</u>	<u>Depth of Sample</u>	<u>Permeability</u>
B-1	20.0' to 22.5'	6.0×10^{-7} cm/sec
B-2	2.0' to 4.5'	2.4×10^{-8} cm/sec
B-3	15.0' to 17.5'	3.0×10^{-7} cm/sec
B-4	9.5' to 11.5'	3.3×10^{-8} cm/sec

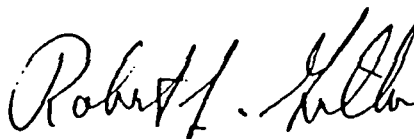
We thank you for the opportunity to be of service. If you have any questions, please don't hesitate to call.

Very truly yours,
Atec Associates, Inc.



Steven Stanford

Geologist



Robert J. Grillo, P.E.

Engineering Manager